

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/HB 1481

Home-Invasion Robbery

**SPONSOR(S):** Fresen

**TIED BILLS:**

**IDEN./SIM. BILLS:**

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	Public Safety & Domestic Security Policy Committee	8 Y, 0 N, As CS	Padgett	Kramer
2)	Criminal & Civil Justice Policy Council			
3)	Criminal & Civil Justice Appropriations Committee			
4)	Full Appropriations Council on General Government & Health Care			
5)				

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**SUMMARY ANALYSIS**

Currently, home-invasion robbery is defined as any robbery that occurs when the offender enters a dwelling with the intent to commit a robbery, and does commit a robbery of the occupants therein. In the course of committing a home-invasion robbery, if a person:

- carries a firearm or deadly weapon, the person commits a first degree felony, punishable by life (ranked in level 10 of the offense severity ranking chart).
- carries a weapon, the person commits a first degree felony (ranked in level 9 of the offense severity ranking chart).
- does not carry a firearm, deadly weapon, or other weapon, the person commits a first degree felony (ranked in level 8 of the offenses severity ranking chart).

The bill provides that a person commits a first degree felony if the victim of a home invasion robbery is a person 65 years of age or older and the person does not carry a firearm, deadly weapon, or other weapon. The offense is ranked as a Level 9 offense in the offense severity ranking chart.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Section 812.13, F.S. defines robbery as the taking of money or other property which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the money or other property, when in the course of the taking there is the use of force, violence, assault, or putting in fear.

Currently, home-invasion robbery is defined as any robbery that occurs when the offender enters a dwelling with the intent to commit a robbery, and does commit a robbery of the occupants therein.<sup>1</sup> In the course of committing<sup>2</sup> a home-invasion robbery, if a person:

- carries a firearm or deadly weapon, the person commits a first degree felony, punishable by life (severity level 10; see below)<sup>3</sup>.
- carries a weapon, the person commits a first degree felony<sup>4</sup> (severity level 9).
- does not carry a firearm, deadly weapon, or other weapon, the person commits a first degree felony (severity level 8).

If a person is convicted of a felony in the state of Florida, the court uses a criminal punishment code scoresheet to determine the minimum length of sentence under statutory guidelines. The scoresheet uses factors such as the severity of the offense for which the person is being sentenced and the offender's prior criminal record.<sup>5</sup> The severity of the offense is determined by referencing the offense severity ranking chart. Florida ranks criminal offenses in the offense severity ranking chart in 10

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<sup>1</sup> Section 812.135(1), F.S.

<sup>2</sup> An act shall be deemed "in the course of committing the robbery" if it occurs in an attempt to commit robbery or in flight after the attempt or commission. Section 812.13(3)(a), F.S.

<sup>3</sup> A first degree felony, punishable by life is punishable by a maximum term of life imprisonment and a \$10,000 fine. Sections 775.082, 775.083, 775.084, F.S.

<sup>4</sup> A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Sections 775.082, 775.083, 775.084, F.S.

<sup>5</sup> Section 921.0024, F.S. The scoresheet requires a prosecutor to compute sentencing factors using a statutory point schedule and a mathematical formula. The final numerical result is the minimum guideline sentence (computed in months). The prosecutor then makes a sentencing recommendation to the court based on the final numerical result of the scoresheet.

different offense levels; 1 being the least severe, 10 being the most severe.<sup>6</sup> The offense severity level does not affect a person's maximum sentence, which is still determined by the degree of felony, but does impact a person's minimum sentence.

#### Proposed Changes

The bill provides that a person commits a first degree felony if the victim of a home invasion robbery is a person 65 years of age or older and the person does not carry a firearm, deadly weapon, or other weapon. The bill is ranked as a Level 9 offense for purposes of sentencing.<sup>7</sup>

#### B. SECTION DIRECTORY:

Section 1: Cites the act as the "Safe at Home Act."

Section 2: Amends s. 812.135, F.S., relating to home-invasion robbery.

Section 3: Amends s. 921.0022, F.S., relating to criminal punishment code; offense severity ranking chart.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

See fiscal comments.

#### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

#### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

#### D. FISCAL COMMENTS:

The Criminal Justice Impact Conference met on March 23, 2009 and determined this bill would have an insignificant prison bed impact.

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<sup>6</sup> Section 921.0022, F.S.

<sup>7</sup> Section 921.0022, F.S.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On March 24, 2009, the Public Safety & Domestic Security Policy Committee adopted an amendment to the bill that changes the requirement to be a victim under the bill from "elderly" to a person 65 years of age or older.